

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL CASE NO. 3:12CV212-MOC-DSC**

ERNIE S. BALDWIN,)	
)	
Plaintiff,)	
)	
v.)	
)	<u>MEMORANDUM AND ORDER</u>
DUKE ENERGY CORPORATION,)	
)	
Defendant.)	
)	

THIS MATTER is before the Court on “Defendant’s Partial Motion to Dismiss,” Doc. 4, and the accompanying Memorandum in Support, Doc. 5, filed April 10, 2012.

This matter was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1).

Rule 15 of the Federal Rules of Civil Procedure governs amendments to pleadings. Rule 15(a)(1) grants a party the right to “amend its pleading once as a matter of course,” if done within twenty-one (21) days after serving the pleading, Fed. R. Civ. P. 15(a)(1)(A), or, “if the pleading is one to which a responsive pleading is required,” a party may amend once as a matter of course, provided that it does so within “21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed. R. Civ. P. 15(a)(1)(B). The Rule further provides that “leave [to amend the pleadings] shall be freely given where justice so requires.” Fed.R.Civ.P. 15(a).

Plaintiff filed an Amended Complaint on April 27, 2012, approximately seventeen (17) days after receiving “Defendant’s Partial Motion to Dismiss,” Doc. 4. Therefore, he may amend his pleading as a matter of course under Rule 15(a)(1).

It is well settled that an amended pleading supersedes the original pleading, and that motions directed at superseded pleadings are to be denied as moot. Young v. City of Mount Ranier, 238 F. 3d 567, 573 (4th Cir. 2001) (amended pleading renders original pleading of no effect); Turner v. Kight, 192 F. Supp. 2d 391, 397 (D. Md. 2002) (denying as moot motion to dismiss original complaint on grounds that amended complaint superseded original complaint).

IT IS HEREBY ORDERED that:

1. “Defendant’s Partial Motion to Dismiss,” Doc. 4, is administratively DENIED as moot without prejudice.
2. The Clerk is directed to send copies of this Memorandum and Order to counsel for the parties; and to the Honorable Max O. Cogburn, Jr.

SO ORDERED.

Signed: April 30, 2012



David S. Cayer
United States Magistrate Judge

